

# Broadband bill relaxes telecommunications rules

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By Holly Fisher, Supplements Editor

When the Telecommunications Act was revised in 1996, e-mail was relatively new, cell phones weren't in everyone's pocket and Internet access was dial up.

In less than 10 years, e-mail has become a main mode of communication, cell phones are everywhere and Web sites appear on the screen in the blink of any eye.

Telecommunications companies have adapted quickly to these technological changes, expanding their services to include broadband Internet and wireless phone services. Companies that were once clearly categorized as "cable" or "telephone" are now seen as communications companies offering a variety of services.

Even though the lines are being blurred in terms of who offers what, the current regulations are tied to each company's past. Phone companies, for example, face more regulations than cable or wireless companies. And cable companies are more regulated than satellite services.

In an effort to level the regulatory playing field among those companies, Sen. John Ensign, R-Nev., introduced the Broadband Investment and Consumer Choice Act of 2005. Ensign, also chairman of the Republican High Tech Task Force, introduced the bill in late July.

"It is time to restore America's status as a leader in the field of global communication technology and to improve burdensome and outdated government regulations for the benefit of consumers nationwide," Ensign said. "Americans' ingenuity and creativity can provide more choices for consumers, if government bureaucrats will get out of the way and allow our companies to compete."

Sen. John McCain, R-Ariz., is a co-sponsor of the bill.

The major provisions of the bill are:

- \* Eliminating the requirement that video services obtain a cable franchise agreement to provide video service.
- \* Setting federal consumer protection standards to ensure timely and quality carrier service.
- \* Assuring consumer access to Internet-based phone service.

For a company like BellSouth, this broadband bill is good news. Because of its history as a telephone company, BellSouth is subject to more regulations than cable or wireless phone companies. But the BellSouth of today is more a communications company than a telephone company

because it provides broadband Internet access and owns 40% of Cingular Wireless.

"These industries are colliding with each other, but under the law, they are treated differently because of their different pasts," said Harry Lightsey, president of South Carolina BellSouth. "This is where the Ensign bill becomes so important. All companies are treated the same in terms of what is regulated and what is not regulated. It puts out there a level playing field and will free up all these companies."

A phone company like BellSouth is required to strike agreements with smaller companies wanting to use its networks, for example. It also faces service quality requirements, such as measured response times. And BellSouth must comply with regulations to be the "carrier of last resort."

Another service provider, such as a cable or wireless company, could decide to provide service to a particular market, but in that market, the company may want to focus on the commercial customers and ignore the residential customers, particularly in a rural area that would be expensive to service. BellSouth would be required to serve those customers and incur the added expense.

Lightsey said the regulatory requirement BellSouth faces cost the company more money, impacting its competitive ability. Also, obtaining approval for federal regulations slows the process and stifles BellSouth's ability to try new technology and services, he adds.

BellSouth is continuing to focus on improving broadband services for its more than 2.3 million DSL customers as well as expanding service to reach potential customers. The company recently introduced a new pricing strategy for its FastAccess DSL service; residential customers will pay one price with no shipping/handling or activation fees.

Broadband Internet access has become big business for BellSouth, and with its joint control of Cingular, wireless service also is a major component of the company's business strategy. This fall BellSouth will unveil faster broadband service-six megabytes per second.

"Technology has created a global marketplace, and broadband is a key technology in all these trends," Lightsey said.

Kevin Bishop, spokesman for Sen. Lindsey Graham, said the South Carolina senator is concerned about bringing broadband service to rural areas so businesses are better able to compete in the global marketplace.

Although Sen. Graham hasn't officially signed onto the bill at this point, Bishop said Graham is supportive of broadband and getting it into rural communities-even though Congress is still wrestling with how to do that.

#### Impact on cable companies

If companies like BellSouth are less regulated, it could mean cable companies offering broadband service will face additional competition.



But Nancy Horne, president of the South Carolina Cable TV Association, said the cable industry has always faced significant competition.

"Everyday the cable industry competes for every penny of consumers' entertainment dollar," Horne said. "Would they rather spend that money to go to the theater or a baseball game? We've competed with local networks and now, satellite and additional cable companies. We think it's already a competitive marketplace."

The cable industry thinks the Broadband Investment and Consumer Choice Act is "an excellent starting point for what's going to be a major stake in the role of government," Horne said.

By lowering the regulations on video providers, all services are treated alike, she said.

"It's a great starting point. I couldn't tell you we're embracing the bill in its totality," Horne noted. "There are some things we would like to see either looked at more closely or added or subtracted from."

The cable industry wants to ensure basic consumer protections are upheld, including access to 9-1-1 and voice services for persons with disabilities, Horne said.

This bill could lead to another major rewrite of the Telecommunications Act, and the cable industry plans to work with Sen. Ensign on the bill as it progresses through the Senate, she noted.

Bill opposition rises up

While proponents of the bill are touting its benefits for consumer choice and a more competitive marketplace, the National League of Cities has noted its opposition to the bill.

Cities are concerned because the bill eliminates the requirement for video service providers to obtain a franchise from the local municipality. The bill does allow local governments to retain control of their rights-of-way and gives local government the option of charging a fee up to 5% of gross video revenues when a provider uses an existing right-of-way.

But the National League of Cities notes the bill has more than four pages of exceptions for instituting the 5% fee. The bill also prohibits municipalities from charging fees for issuing construction permits needed to install or upgrade facilities, according to a statement from the NLC.

Ken Fellman, chairman of the NLC's Information Technology and Communications Committee, said in a statement, "We have grave concerns about the language in Sen. Ensign's bill. We will spend the recess educating members about the crippling impact this would have on our ability as local governments to manage our public rights of way and to serve our citizens."

"Not only is the bill bad public policy, but it revokes existing contracts, creates special exemptions for telecommunications companies,

and, in a number of respects, appears to be unconstitutional," said Fellman, mayor of Arvada, Colo.

#### Additional efforts

Congress reconvenes Sept. 6. Later this year, Sen. Ted Stevens, R-Alaska, and Rep. Joe Barton, R-Texas, are expected to introduce telecommunications bills, according to the NLC.

The U.S. Chamber of Commerce, earlier this year, launched TeleCONSENSUS, a coalition of chambers of commerce, telecommunications providers, equipment manufacturers, businesses and consumers, in an effort to encourage Congress to update telecommunications laws and regulations.

For more information on TeleCONSENSUS, visit [www.teleconsensus.com](http://www.teleconsensus.com).

To read the Broadband Investment and Consumer Choice Act, visit [http://ensign.senate.gov/static\\_media/072705\\_telecom\\_bill.pdf](http://ensign.senate.gov/static_media/072705_telecom_bill.pdf)

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